

**Legislative Council—No 133**

As introduced and read a first time, 28 September 2011

South Australia

**Statutes Amendment (Drug Driving) Bill 2011**

A BILL FOR

An Act to amend the *Harbors and Navigation Act 1993*; the *Motor Vehicles Act 1959*; the *Road Traffic Act 1961*; and the *Summary Offences Act 1953*.

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## The Parliament of South Australia enacts as follows:

### Part 1—Preliminary

#### 1—Short title

This Act may be cited as the *Statutes Amendment (Drug Driving) Act 2011*.

#### 2—Commencement

- 5 This Act will come into operation on a day to be fixed by proclamation.

#### 3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

## **Part 2—Amendment of *Harbors and Navigation Act 1993***

### **4—Amendment of section 70—Alcohol and other drugs**

Section 70(3), penalty provision—delete the penalty provision and substitute:

Penalty:

- 5
- (a) for a first offence—a fine of not less than \$1 100 and not more than \$1 600;
  - (b) for a second offence—a fine of not less than \$1 600 and not more than \$2 400;
  - 10 (c) for a third or subsequent offence—a fine of not less than \$1 900 and not more than \$2 900.

### **5—Amendment of section 72—Authorised person may require drug screening test, oral fluid analysis and blood test**

Section 72(10), penalty provision—delete the penalty provision and substitute:

Penalty:

- 15
- (a) for a first offence—a fine of not less than \$1 100 and not more than \$1 600;
  - (b) for a subsequent offence—a fine of not less than \$1 900 and not more than \$2 900.

## **Part 3—Amendment of *Motor Vehicles Act 1959***

### **6—Amendment of section 81AB—Probationary licences**

Section 81AB(7), definition of *prescribed circumstances*, (a)—delete ", 81C or 81D" and substitute:

or 81C

### **7—Repeal of section 81D**

25 Section 81D—delete the section

### **8—Amendment of section 139BD—Service and commencement of notices of disqualification**

Section 139BD(11), definition of *notice of disqualification*—delete ", 81D(2)"

## **Part 4—Amendment of *Road Traffic Act 1961***

### **9—Amendment of section 47BA—Driving with prescribed drug in oral fluid or blood**

(1) Section 47BA(1), penalty provision—delete the penalty provision and substitute:

Penalty:

- (a) for a first offence—a fine of not less than \$1 100 and not more than \$1 600;
- (b) for a second offence—a fine of not less than \$1 600 and not more than \$2 400;
- (c) for a third or subsequent offence—a fine of not less than \$1 900 and not more than \$2 900.

(2) Section 47BA(4)(a)—delete paragraph (a) and substitute:

- (a) the court must order that the person be disqualified from holding or obtaining a driver's licence—
  - (i) in the case of a first offence—for such period, being not less than 12 months, as the court thinks fit;
  - (ii) in the case of a subsequent offence—for such period, being not less than 2 years, as the court thinks fit;
- (ab) the disqualification prescribed by paragraph (a) cannot be reduced or mitigated in any way or be substituted by any other penalty or sentence unless, in the case of a first offence, the court is satisfied, by evidence given on oath, that the offence is trifling, in which case it may order a period of disqualification that is less than the prescribed minimum period but not less than 1 month;

(3) Section 47BA(5)—delete "(other than subsection (6))"

(4) Section 47BA(6) and (7)—delete subsections (6) and (7)

### **10—Amendment of section 47EAA—Police may require drug screening test, oral fluid analysis and blood test**

(1) Section 47EAA(9), penalty provision—delete the penalty provision and substitute:

Penalty:

- (a) for a first offence—a fine of not less than \$1 100 and not more than \$1 600;
- (b) for a subsequent offence—a fine of not less than \$1 900 and not more than \$2 900.

(2) Section 47EAA(16)(a)(i)—delete "6 months" and substitute:

12 months

### **11—Amendment of section 47IAA—Power of police to impose immediate licence disqualification or suspension**

(1) Section 47IAA(1)—after paragraph (b) insert:

- (ba) an offence against section 47BA(1);

(2) Section 47IAA(1)—after paragraph (c) insert:

- (ca) an offence against section 47EAA(9);

**12—Amendment of section 47IAB—Application to Court to have  
disqualification or suspension lifted**

Section 47IAB(2)(b)(i)—after "first offence" insert:

, or an offence against section 47BA(1) that is a first offence,

5 **Part 5—Amendment of *Summary Offences Act 1953***

**13—Amendment of section 68—Power to search suspected vehicles, vessels,  
and persons**

Section 68—after subsection (1) insert:

- 10
- (1a) A police officer may stop, search and detain a motor vehicle if the officer has reasonable cause to suspect that a prescribed offence has been committed in relation to the motor vehicle.
- (1b) Subsection (1a) applies despite clause 8 of Schedule 1 of the *Road Traffic Act 1961*.
- 15 (1c) A ***prescribed offence*** is committed in relation to a motor vehicle for the purposes of subsection (1a) if a person (being the driver of the motor vehicle or a person who has attempted to put the motor vehicle in motion) commits an offence against section 47BA(1) or 47EAA(9) of the *Road Traffic Act 1961*.